

03-1120 MICHIGAN BEER & WINE WHOLESALERS V. HEALD

DECISION BELOW: 342 F3d 517

LOWER COURT CASE NUMBER: 01-2720

QUESTION PRESENTED:

Section 2 of the Twenty-first Amendment of the United States Constitution prohibits importation of alcoholic beverages into any state, for delivery or use therein, in violation of the laws thereof. In the Webb-Kenyon Act, 27 U.S.C. § 122, Congress exercised its power under the Commerce Clause to impose essentially the same prohibition by federal statute. Michigan, like many other states, generally prohibits the importation of alcoholic beverages by any unlicensed person. Michigan law permits licensed in-state wineries to ship wine directly to consumers, but does not, as a matter of right, permit out-of-state wineries (which are not licensed by the state) to do so. An out-of-state entity may locate in Michigan and be licensed as an in-state winery. The Sixth Circuit ruled that the Michigan statute is "facially discriminatory" and struck down the prohibition on importation, allowing Michigan consumers to order and receive wine from out-of-state sources without limitation. The questions presented are:

1. Whether the Sixth Circuit erred in ruling (in conflict with a Seventh Circuit decision upholding a similar Indiana statute against the same challenge) that the Twenty-first Amendment and the Webb-Kenyon Act do not authorize Michigan to enact statutes that prohibit the importation of alcoholic beverages by unlicensed persons, and that the Commerce Clause bars such statutes.
2. Whether the Sixth Circuit erred in ruling (in conflict with a Fourth Circuit decision with respect to a similar North Carolina statute) that the proper remedy for the alleged discrimination was to invalidate the state's control over importation of alcoholic beverages rather than merely strike the offending exception for in-state wineries.

CONSOLIDATED WITH 03-1116 AND 03-1274 FOR ONE HOUR ORAL ARGUMENT.

CERT. GRANTED 5/24/2004